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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,455	04/16/2004	Bulent Abali	YOR920030593US1 (17487)	1048
23389 7590 05/22/2007 SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530			EXAMINER	
			EHNE, CHARLES	
			ART UNIT	PAPER NUMBER
			2113	
			MAIL DATE	DELIVERY MODE
			05/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)				
Office Action Summary	10/826,455	ABALI ET AL.				
• • • • • • • • • • • • • • • • • • •	Examiner Charles Three	Art Unit				
The MAILING DATE of this communication app	Charles Ehne	2113				
Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DATE of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  If NO period for reply is specified above, the maximum statutory period was realized to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tim vill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	L. nely filed the mailing date of this communication. D (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on 20 M	arch 2007.					
2a) This action is <b>FINAL</b> . 2b) ⊠ This	This action is <b>FINAL</b> . 2b)⊠ This action is non-final.					
	3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims						
4) Claim(s) <u>1-30</u> is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6)⊠ Claim(s) <u>1-30</u> is/are rejected.						
7) Claim(s) is/are objected to.	r alaction requirement					
8) Claim(s) are subject to restriction and/or election requirement.						
Application Papers						
9) The specification is objected to by the Examine	r.					
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of:						
1. Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No						
3. Copies of the certified copies of the priority documents have been received in this National Stage						
application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.						
* See the attached detailed Office action for a list of the certified copies not received.						
Attachment(s)	. <u> </u>					
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	4) Interview Summary Paper No(s)/Mail Da					
3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	atent Application					

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## **DETAILED ACTION**

## Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

- 1. Determining the scope and contents of the prior art.
- 2. Ascertaining the differences between the prior art and the claims at issue.
- 3. Resolving the level of ordinary skill in the pertinent art.
- 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens taken in view of Brown (6,738,928).

As to claim 1, Stevens discloses a system for diagnosing and repairing computer systems comprising:

a first computing system executing an operating system of a first platform type (column 7, lines 25-29);

an operating system of a second platform type adapted to be executed on said first computing system upon failure of said operating system of said first platform type (column 7, lines 43-48);

an application running under said operating system of said second platform type for obtaining diagnostic information (column 8, lines 6-13);

a second computing system executing the same operating system of said first platform type as said failed operating system (column 7, lines 13-21); and

a means for communicating said diagnostic information obtained by said application to said second computing system (column 7, lines 7-11 & column 14, lines 29-33);

Stevens fails to disclose wherein:

the diagnostic information pertains to the failed operating system of the first platform;

a means at said second computing system for utilizing said diagnostic information to diagnose the subject failed operating system of said first computing system; and

a means executing at said second computing system for generating repair information for communication to the application running on said first computer system to repair the failed operating system.

Brown discloses an automated method for analyzing crashed of a computer operating system (Abstract, lines 1-2). Brown also discloses wherein the first computing system has a first and second platform type (column 4, lines 3-6). Brown does disclose wherein:

an application running under said operating system of said second platform type for obtaining diagnostic information the diagnostic information pertains to the failed operating system of the first platform (column 3, lines 25-38);

a means at said second computing system for utilizing said diagnostic information to diagnose the subject failed operating system of said first computing system (column 5, lines 1-12 & lines 17-20); and

a means executing at said second computing system for generating repair information for communication to the application running on said first computer system to repair the failed operating system (column 4, lines 55-62 & column 5, lines 26-30).

It would have been obvious to one of ordinary skill in this art at the time of invention by applicant implement Brown's failed operating system diagnostic data with Stevens' method for data recovery. A person of ordinary skill in the art would have been motivated to make the modification because operating system crashes cause system unavailability and possible data loss, and Brown's operating system failure data helps diagnose and fix system crashes (Brown: column 1, lines 15-17 & column 2, lines 24-29).

As to claim 2, Stevens discloses the system as claimed in claim 1, wherein said generated repair information includes at least one new file necessary to the repair, and, an instruction for copying said at least one new file back to said first computing system (column 20, lines 51-62 & column 21, lines 55-59).

As to claim 3, Stevens discloses the system as claimed in claim 1, wherein said generated repair information includes at least one modified file necessary to the repair,

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and, an instruction for overwriting existing data with modified file data at said first computing system (column 23, lines 9-15).

As to claim 4, Stevens discloses the system as claimed in claim 1, wherein said diagnostic information pertaining to said failed operating system comprises relevant file system configuration information including at least one from the group comprising: registry files, system files, system settings, error files, error logs, and other system configuration files of said failed operating system (column 13, lines 21-26).

As to claim 5, Brown disclose wherein said first computing system comprises a partitioned hard disk drive wherein said operating system of said first and second types executes on separate partitions (column 4, lines 9-10).

As to claim 6, Brown discloses the system as claimed in claim 5, wherein said operating system of a first platform type is a Windows-based operating system, and said application executing under said operating system of said second platform type is Linux-based (column 4, lines 13-18).

As to claim 7, Stevens discloses the system as claimed in claim 1, wherein said communication means includes a network connection (Figure 1, column 7, lines 7-10).

As to claim 8, Stevens discloses the system as claimed in claim 1, wherein said application running under said operating system of said second platform type is enabled to read data from and write data to the files associated with said failed operating system (column 7, lines 52-55).

As to claim 9, Stevens discloses the system as claimed in claim 4, wherein said second computing system comprises operating system interface means for enabling the

examination of the diagnostic information to determine problem causes and corrections to said failed operating system on said first computing system (column 22, lines 33-36).

As to claim 10, Stevens discloses a computer system diagnostic and repair service for reviving a failed operating system executing on a remote computing system comprising:

at least one proxy computing system adapted to execute applications under operating systems of varying platform types (column 6, lines 21-28 & columns 5-6, lines 64-2);

a means located at said at least one proxy computing system for receiving diagnostic information obtained from a diagnostic application executing on said remote computing system having a failed operating system to be revived, said diagnostic information relating to said failed operating system being received at a proxy computing device executing the same operating system platform as said failed operating system platform (column 7, lines 43-48 & column 8, lines 6-13 & column 7, lines 13-21 & column 14, lines 29-33);

Stevens fails to disclose:

an application running under said operating system of said second platform type for obtaining diagnostic information the diagnostic information pertains to the failed operating system of the first platform;

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a means located at said at least one proxy computing system for utilizing said received diagnostic information to diagnose the failed operating system to be revived at said remote computing system; and

a means located at said at least one proxy computing system for generating repair information adapted for communication back to said diagnostic application running on said remote computer system having said failed operating system, wherein said repair information is utilized to enable revival of said failed operating system at said remote computing system.

Brown discloses an automated method for analyzing crashed of a computer operating system (Abstract, lines 1-2). Brown also discloses wherein the first computing system has a first and second platform type (column 4, lines 3-6). Brown does disclose wherein:

an application running under said operating system of said second platform type for obtaining diagnostic information the diagnostic information pertains to the failed operating system of the first platform (column 3, lines 25-38);

a means located at said at least one proxy computing system for utilizing said received diagnostic information to diagnose the failed operating system to be revived at said remote computing system (column 5, lines 1-12 & lines 17-20); and

a means located at said at least one proxy computing system for generating repair information adapted for communication back to said diagnostic application running on said remote computer system having said failed operating system, wherein

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said repair information is utilized to enable revival of said failed operating system at said remote computing system (column 4, lines 55-62 & column 5, lines 26-30).

It would have been obvious to one of ordinary skill in this art at the time of invention by applicant implement Brown's failed operating system diagnostic data with Stevens' method for data recovery. A person of ordinary skill in the art would have been motivated to make the modification because operating system crashes cause system unavailability and possible data loss, and Brown's operating system failure data helps diagnose and fix system crashes (Brown: column 1, lines 15-17 & column 2, lines 24-29).

As to claim 11, Stevens discloses the computer system diagnostic and repair service as claimed in claim 10, wherein said diagnostic application executes at said remote computing system under a second operating system of a second platform type having been previously booted upon failure of a primary operating system (column 7, lines 44-48).

As to claim 12, Stevens discloses the computer system diagnostic and repair service as claimed in claim 10, wherein said diagnostic information pertaining to said failed operating system comprises relevant file system configuration information including at least one from the group comprising: registry files, system files, system settings, error files, error logs, and other system configuration files of said failed operating system (column 13, lines 21-26).

As to claim 13, Stevens discloses the computer system diagnostic and repair service as claimed in claim 10, wherein said generated repair information comprises: at

least one new file necessary to the repair, and, an instruction for copying said at least one new file back to said remote computing system; or, at least one modified file necessary to the repair, and, an instruction for overwriting existing data with said modified file data at said remote computing system (column 13, lines 21-26 & column 23, lines 9-15).

As to claim 14, Stevens discloses the computer system diagnostic and repair service as claimed in claim 10, further comprising a network communication means for enabling communication of diagnostic information from said remote computing system to said proxy computing system and for enabling communication of repair information from proxy computing system to said remote computing system (Figure 1, column 7, lines 7-10).

As to claim 15, Stevens discloses a method for diagnosing and repairing a first computing system executing an operating system of a first platform type and subject to a failure diagnosis, said method comprising steps of:

providing an operating system of a second platform type adapted to be executed on said first computing system upon failure of said operating system of said first platform type (column 7, lines 43-48);

executing an application under said operating system of said second platform type for obtaining diagnostic information pertaining to said failed operating system on said first computing system (column 8, lines 6-13);

providing a second computing system executing the same operating system of said first platform type as said failed operating system executed on said first computing system (column 7, lines 13-21); and

communicating said diagnostic information obtained by said application to said second computing system (column 7, lines 7-11 & column 14, lines 29-33);

Stevens fails to disclose wherein:

the diagnostic information pertains to the failed operating system of the first platform;

utilizing said diagnostic information to diagnose the subject failed operating system of said first computing system; and

generating repair information at said second computing system and communicating said repair information to the application running on said first computer system to repair the failed operating system.

Brown discloses an automated method for analyzing crashed of a computer operating system (Abstract, lines 1-2). Brown also discloses wherein the first computing system has a first and second platform type (column 4, lines 3-6). Brown does disclose wherein:

executing an application under said operating system of said second platform type for obtaining diagnostic information pertaining to said failed operating system on said first computing system (column 3, lines 25-38);

utilizing said diagnostic information to diagnose the subject failed operating system of said first computing system (column 5, lines 1-12 & lines 17-20); and

generating repair information at said second computing system and communicating said repair information to the application running on said first computer system to repair the failed operating system (column 4, lines 55-62 & column 5, lines 26-30).

It would have been obvious to one of ordinary skill in this art at the time of invention by applicant implement Brown's failed operating system diagnostic data with Stevens' method for data recovery. A person of ordinary skill in the art would have been motivated to make the modification because operating system crashes cause system unavailability and possible data loss, and Brown's operating system failure data helps diagnose and fix system crashes (Brown: column 1, lines 15-17 & column 2, lines 24-29).

As to claim 16, Stevens discloses the method as claimed in claim 15, wherein said step of generating repair information includes generating at least one new file necessary to the repair, and, an instruction for copying said at least one new file back to said first computing system (column 20, lines 51-62 & column 21, lines 55-59).

As to claim 17, Stevens discloses the method as claimed in claim 15, wherein said step of generating repair information includes generating at least one modified file necessary to the repair, and, an instruction for overwriting existing data with modified file data at said first computing system (column 23, lines 9-15).

As to claim 18, Stevens discloses the method as claimed in claim 15, wherein said step of obtaining diagnostic information pertaining to said failed operating system includes reading relevant file system configuration information including at least one

from the group comprising: registry files, system files, system settings, error files, error logs, and other system configuration files of said failed operating system (column 13, lines 21-26).

As to claim 19, Stevens discloses the method as claimed in claim 15, wherein said step of generating repair information includes the step of providing operating system interfaces for enabling the examination of the diagnostic information to determine problem causes and corrections to said failed operating system on said first computing system (column 22, lines 33-36).

As to claim 20, Stevens discloses a method for reviving a failed operating system executing on a remote computing system, said method comprising the steps of:

- a) providing a proxy computing system adapted to execute applications under at least one operating system of varying platform types (column 6, lines 21-28 & column columns 5-6, lines 64-2); and
- b) receiving diagnostic information obtained from a diagnostic application executing on said remote computing system having a failed operating system to be revived, said diagnostic information being received at a proxy computing system executing the same operating system platform as said failed operating system platform (column 7, lines 43-48 & column 8, lines 6-13 & column 7, lines 13-21 & column 14, lines 29-33);

Stevens fails to disclose wherein:

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the diagnostic information pertains to the failed operating system of the first platform;

- c) utilizing said received diagnostic information at said proxy computing system for diagnosing the failed operating system to be revived at said remote computing system;
  - d) generating repair information at said proxy computing system;
- e) communicating said generated repair information back to said diagnostic application running on said remote computer system having said failed operating system; and,
- f) utilizing said repair information to enable revival of said failed operating system at said remote computing system.

Brown discloses an automated method for analyzing crashed of a computer operating system (Abstract, lines 1-2). Brown also discloses wherein the first computing system has a first and second platform type (column 4, lines 3-6). Brown does disclose wherein:

the diagnostic information pertaining to said failed operating system on said first computing system (column 3, lines 25-38);

- c) utilizing said received diagnostic information at said proxy computing system for diagnosing the failed operating system to be revived at said remote computing system (column 5, lines 1-12 & lines 17-20); and
- d) generating repair information at said proxy computing system (column 4, lines 55-62 & column 5, lines 26-30).

f) utilizing said repair information to enable revival of said failed operating system at said remote computing system (column 5, lines 25-30).

It would have been obvious to one of ordinary skill in this art at the time of invention by applicant implement Brown's failed operating system diagnostic data with Stevens' method for data recovery. A person of ordinary skill in the art would have been motivated to make the modification because operating system crashes cause system unavailability and possible data loss, and Brown's operating system failure data helps diagnose and fix system crashes (Brown: column 1, lines 15-17 & column 2, lines 24-29).

As to claim 21, Stevens discloses the method for reviving a failed operating system as claimed in claim 20, further comprising the steps of: executing a second operating system of a second platform type upon failure of a primary operating system; and, executing said diagnostic application at said remote computing system under said second operating system (column 7, lines 43-48).

As to claim 22, Stevens discloses the method for reviving a failed operating system as claimed in claim 20, wherein said diagnostic information pertaining to said failed operating system comprises relevant file system configuration information including at least one from the group comprising: registry files, system files, system

settings, error files, error logs, and other system configuration files of said failed operating system (column 13, lines 21-26).

As to claim 23, Stevens discloses the method for reviving a failed operating system as claimed in claim 20, further wherein said generated repair information comprises: at least one new file necessary to the repair, and, an instruction for copying said at least one new file back to said remote computing system; or, at least one modified file necessary to the repair, and, an instruction for overwriting existing data with said modified file data at said remote computing system (column 13, lines 21-26 & column 23, lines 9-15).

As to claim 24, Stevens discloses the method for reviving a failed operating system as claimed in claim 20, further comprising the step of implementing a network communication means for enabling receipt of said diagnostic information from said remote computing system and, for enabling communication of repair information from said proxy computing system to said remote computing system (Figure 1, column 7, lines 7-10).

As to claim 25, Stevens discloses a program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform method steps for diagnosing and repairing a first computing system executing an operating system of a first platform type and subject to a failure diagnosis, said method steps comprising:

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providing an operating system of a second platform type adapted to be executed on said first computing system upon failure of said operating system of said first platform type (column 7, lines 43-48);

executing an application under said operating system of said second platform type for obtaining diagnostic information pertaining to said first computing system (column 8, lines 6-13); and

providing a second computing system executing the same operating system of said first platform type as said failed operating system executed on said first computing system (column 7, lines 13-21);

communicating said diagnostic information obtained by said application to said second computing system (column 7, lines 7-11 & column 14, lines 29-33);

Stevens fails to disclose wherein:

the diagnostic information pertains to the failed operating system of the first platform;

utilizing said diagnostic information to diagnose the subject failed operating system of said first computing system; and

generating repair information at said second computing system and communicating said repair information to the application running on said first computer system to repair the failed operating system.

Brown discloses an automated method for analyzing crashed of a computer operating system (Abstract, lines 1-2). Brown also discloses wherein the first computing

system has a first and second platform type (column 4, lines 3-6). Brown does disclose wherein:

the diagnostic information pertaining to said failed operating system on said first computing system (column 3, lines 25-38);

utilizing said diagnostic information to diagnose the subject failed operating system of said first computing system (column 5, lines 1-12 & lines 17-20); and

generating repair information at said second computing system and communicating said repair information to the application running on said first computer system to repair the failed operating system (column 4, lines 55-62 & column 5, lines 26-30).

It would have been obvious to one of ordinary skill in this art at the time of invention by applicant implement Brown's failed operating system diagnostic data with Stevens' method for data recovery. A person of ordinary skill in the art would have been motivated to make the modification because operating system crashes cause system unavailability and possible data loss, and Brown's operating system failure data helps diagnose and fix system crashes (Brown: column 1, lines 15-17 & column 2, lines 24-29).

As to claim 26, Stevens discloses the program storage device readable by a machine as claimed in claim 25, wherein said step of generating repair information includes generating at least one new file necessary to the repair, and, an instruction for copying said at least one new file back to said first computing system (column 20, lines 51-62 & column 21, lines 55-59).

As to claim 27, Stevens discloses the program storage device readable by a machine as claimed in claim 25, wherein said step of generating repair information includes generating at least one modified file necessary to the repair, and, an instruction for overwriting existing data with modified file data at said first computing system (column 23, lines 9-15).

As to claim 28, Stevens discloses the program storage device readable by a machine as claimed in claim 25, wherein said step of obtaining diagnostic information pertaining to said failed operating system includes reading relevant file system configuration information including at least one from the group comprising: registry files, system files, system settings, error files, error logs, and other system configuration files of said failed operating system (column 13, lines 21-26).

As to claim 29, Stevens discloses the program storage device readable by a machine as claimed in claim 25, wherein said step of generating repair information includes the step of providing operating system interfaces for enabling the examination of the diagnostic information to determine problem causes and corrections to said failed operating system on said first computing system (column 22, lines 33-36).

As to claim 30, Stevens discloses a program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform method steps for reviving a failed operating system executing on a remote computing system, said method steps comprising:

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a) providing a proxy computing system adapted to execute applications under at least one operating system of varying platform types (column 6, lines 21-28 & column columns 5-6, lines 64-2);

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b) receiving diagnostic information obtained from a diagnostic application executing on said remote computing system having a failed operating system to be revived, said diagnostic information being received at a proxy computing system executing the same operating system platform as said failed operating system platform (column 7, lines 43-48 & column 8, lines 6-13 & column 7, lines 13-21 & column 14, lines 29-33);

Stevens fails to disclose wherein:

the diagnostic information pertains to the failed operating system of the first platform;

- c) utilizing said received diagnostic information at said proxy computing system for diagnosing the failed operating system to be revived at said remote computing system;
  - d) generating repair information at said proxy computing system;
- e) communicating said generated repair information back to said diagnostic application running on said remote computer system having said failed operating system; and,
- f) utilizing said repair information to enable revival of said failed operating system at said remote computing system.

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Brown discloses an automated method for analyzing crashed of a computer operating system (Abstract, lines 1-2). Brown also discloses wherein the first computing system has a first and second platform type (column 4, lines 3-6). Brown does disclose wherein:

the diagnostic information pertaining to said failed operating system on said first computing system (column 3, lines 25-38);

- c) utilizing said received diagnostic information at said proxy computing system for diagnosing the failed operating system to be revived at said remote computing system (column 5, lines 1-12 & lines 17-20); and
- d) generating repair information at said proxy computing system (column 4, lines 55-62 & column 5, lines 26-30).
- f) utilizing said repair information to enable revival of said failed operating system at said remote computing system (column 5, lines 25-30).

It would have been obvious to one of ordinary skill in this art at the time of invention by applicant implement Brown's failed operating system diagnostic data with Stevens' method for data recovery. A person of ordinary skill in the art would have been motivated to make the modification because operating system crashes cause system unavailability and possible data loss, and Brown's operating system failure data helps diagnose and fix system crashes (Brown: column 1, lines 15-17 & column 2, lines 24-29).

Response to Arguments

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Applicant's arguments, see pages 2-3, filed 3/20/2007, with respect to the rejection(s) of claim(s) 1-4 and 7-30 under Stevens (US 6,145,088) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Stevens in view of Brown (US 6,738,928).

## Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Ehne whose telephone number is (571)-272-2471. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571)-272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

